

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

-against-

**ROBERT J. MUELLER, DEEPROOT FUNDS
LLC (a/k/a dprt Funds, LLC), AND POLICY
SERVICES INC.,**

Defendants,

-and-

**DEEPROOT TECH LLC, DEEPROOT
PINBALL LLC, DEEPROOT STUDIOS LLC,
DEEPROOT SPORTS & ENTERTAINMENT
LLC, DEEPROOT RE 12621 SILICON DR LLC,
AND ROBERT J. MUELLER, JEFFREY L.
MUELLER, AND BELINDA G. BREEN, AS CO-
TRUSTEES OF THE MB HALE OHANA
REVOCABLE TRUST,**

Relief Defendants.

Civil Action No.: 5:21-cv-785-XR

**DEFENDANT ROBERT J. MUELLER'S
RULE 26(a)(3) PRETRIAL DISCLOSURES**

TO THE HONORABLE COURT:

Pursuant to Fed. R. Civ. P. 26(a)(3) and the Court's August 1, 2023 Fifth Amended Scheduling Order, Defendant Robert J. Mueller submits the following pretrial disclosures:

I. WITNESSES

Mueller hereby submits the following list of witnesses that he reasonably expects to call or may call at trial. Mueller reserves the right to modify, amend or supplement this list at any time

prior to trial. Mueller further reserves the right to withdraw any of the following witnesses and to offer additional witnesses as necessary for rebuttal or impeachment.

Name	Contact Information	Expects to Call	May Call	Live or By Depo
Lauren R. “Becca” Adams	12019 Treewell Glen San Antonio, TX 78249 (843) 903-2854 (717) 818-0307		X	Live
Scott L. Allen	c/o William Marsh, Esq. Haynes and Boone, LLP 2323 Victory Avenue, Suite 700 Dallas, TX 75219-7672 (214) 651-5031	X		Both
Eric Dandridge	120 Rocky Path Boerne, TX 78006 (918) 277-1130/1132	X		Depo
Cary Mueller	c/o Gordon C. Young, Esq. Barr & Young Attorneys 318-C Diablo Road Danville, CA 94526 (925) 314-9999, ext. 302		X	Live
Nathan Spradlin	c/o Andrew R. Shedlock, Esq. Kutak Rock LLP 60 South Sixth Street, Suite 3400 Minneapolis, MN 55402 (612) 334-5022	X		Depo
Charlotte Acker	2313 Brittany Grace New Braunfels, Texas 78130-8937 Charlotteacker54@gmail.com (325) 388-8460 (210) 862-9622		X	Live
Ken Abramson Abramson Accountancy Corp.	23901 Calabasas Road, Suite 1072 Calabasas, California 91302 (818) 918-4500	X		Depo
Chris Williams Williams Steinert Mask, LLP	1100 NE Interstate 410 Loop, Suite 350 San Antonio, Texas 78209 (210) 684-1071		X	Live
Robert Mueller	c/o Jason Davis Davis & Santos, PLLC 719 S. Flores St. San Antonio, Texas 78204 210-853-5882	X		Both
Phillip Forret	600 N. Pearl St., Suite 1700		X	Live

Name	Contact Information	Expects to Call	May Call	Live or By Depo
BDO USA, LLP	Dallas, Texas 75201			
Pat Lowe	c/o Randy Pulman PULMAN, CAPUCCIO & PULLEN, LLP 2161 NW Military Highway, Suite 400 San Antonio, Texas 78213 (210) 222-9494		X	Live
Jeffrey L. Mueller	c/o Edward Snyder CASTILLO SNYDER, PC One Riverwalk Place 700 N. St. Mary's, Suite 1560 San Antonio, Texas 78205		X	Live
Belinda G. Breen	c/o Edward Snyder CASTILLO SNYDER, PC One Riverwalk Place 700 N. St. Mary's, Suite 1560 San Antonio, Texas 78205		X	Live
Sean Gibson	3055 Nantucket Dr. San Antonio, Texas 78230 (210) 834-1316		X	Live
Chris Turner Turner Logic	215 West Bandera Road, Ste. 114-814 Boerne, Texas 78006 (210) 901-9955		X	Live
Joshua Garcia			X	Live
James C. Aguilera, CPA	9519 Gloxinia Dr Garden Ridge, Texas 78266-2536		X	Live
Dennis Concilla	CARLILE PATCHEN MURPHY, LLP 950 Goodale Blvd., Suite 200 Columbus, Ohio 43212 (614) 228-6135	X		Both
Andrew Federico	CARLILE PATCHEN MURPHY, LLP 950 Goodale Blvd., Suite 200 Columbus, Ohio 43212 (614) 228-6135	X		Both
Craig Rushforth PharmaLogic	4077 Commerce Circle Idaho Falls, Idaho 83401	X		Depo
Jason Rudd	WICK PHILLIPS 3131 McKinney Avenue, Suite 500 Dallas, Texas 75204 (214) 692-6200		X	Live
Steven Bowden American Pinball, Inc.	5434 Sunlit Brk San Antonio, Texas 78240-2453		X	Live
Quinn Johnson	2503 Jackson Keller Rd., Apt 1321 San Antonio, Texas 78230-5257		X	Live

II. WITNESSES BY DEPOSITION

Mueller hereby submits the following page:line designations of deposition testimony for those witnesses that he expects to or may call at trial by deposition. Mueller further reserves the right to withdraw any of the following designations and to offer additional designations as necessary for rebuttal or impeachment.

1. Eric Dandridge

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2. Scott Allen

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3. Nathan Spradlin

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4. Ken Abramson

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5. Craig Rushforth

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6. Dennis Concilla

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7. Andrew Federico

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III. TRIAL EXHIBITS

Mueller hereby submits the following list of exhibits that he reasonably expects to offer and may offer. Mueller reserves the right to withdraw any of the following exhibits and to offer additional exhibits as necessary for rebuttal or impeachment.

EX. NO.	DESC.	DATE	BATES REF.	AGD.	OBJ.	ADM.
1.	Deeproot Presentation		DEEPROOT FUNDS_005713-39 (Depo Ex. 4)			
2.	Deeproot the575 2019 PPM – Class B Membership Shares	09/16/2019	SEC-DEEPROOT-E-0164824-41 (Depo Ex. 5)			
3.	Deeproot dGRD 2019 PPM – Class C Membership Shares, last updated 10/24/2019	02/26/2018	SEC-DEEPROOT-E-0152250-68 (Depo Ex. 7)			
4.	Email from Mueller to Dandridge regarding Nov. updates	11/10/2020	SEC-DEEPROOT-E-0025419-23 (Depo Ex. 8)			
5.	Scott Allen resume		SEC-EMAILS-E-0012926-27 (Depo Ex. 9)			
6.	the575 Application and Subscription Agreement for John Gray	08/07/2019	DEEPROOT FUNDS_002274-84 (Depo Ex. 10)			
7.	letter to 575P Investor	09/30/2020	SEC-DEEPROOT-E-0008354 (Depo Ex. 11)			
8.	Employee Bonus Agreement	08/09/2019	SEC-AllenS-E-000037 (Depo Ex. 12)			
9.	Big Picture Discussion List		SEC-AllenS-E-0000009-14 (Depo Ex. 13)			
10.	Scott Allen Memo	05/27/2020	SEC-AllenS-E-0000046-51 (Depo Ex.14)			

EX. NO.	DESC.	DATE	BATES REF.	AGD.	OBJ.	ADM.
11.	Emails between Mueller and Allen regarding Andrew Cheronos	10/06/2020	SEC-DEEPROOT-E-0126910-13 (Depo Ex. 15)			
12.	Slack Message from Scott Allen regarding resignation	10/07/2020	SA-000014-15 (Depo Ex. 17)			
13.	Memo from Allen to Mueller regarding resignation	10/07/2020	SEC-AllenS-E-0000079-80 (Depo Ex. 18)			
14.	Allen resignation letter	10/07/2020	SEC-AllenS-E-000081 (Depo Ex. 22)			
15.	Investment Portfolio Narrative 2020.B2		SEC-DEEPROOT-E-0013223-36 (Depo Ex. 25) (MSJR Ex. A-12)			
16.	Email Concilla to Mueller attaching engagement letter	04/22/2013	SEC-PulmanR-E-0000001, 04-05 (Depo Ex. 27 / MSJR Ex. A-11)			
17.	Emails between Mueller, Federico and Concilla regarding PPM	05/12/2015	MUELLER 002186-88 (Depo Ex. 32)			
18.	Emails between Mueller and Concilla regarding policies and blind pool		MUELLER 002306-09 (Depo Ex 33)			
19.	Emails between Mueller and Concilla regarding information needed for BGD5, BRD3 and INC3	08/21/2015	MUELLER 002715-17 (Depo Ex. 35)			
20.	September 1, 2015 the575 PPM	09/01/2015	SEC-DEEPROOT-E-0014497-12 (Depo Ex. 36)			
21.	Emails between Wik and Mueller re: paper	03/20/2017	SEC-DEEPROOT-E-0210796-808 (Depo Ex. 37)			
22.	Investment Allocation Agreement	03/23/2017	SEC-DEEPROOT-E-0213963-66 (Depo Ex 38)			
23.	Nathan Spradlin resume		SPRADLIN 00001-02 (Depo Ex. 44)			
24.	Email from Cary Mueller to Colleagues regarding the575 applications	02/10/2017	SEC-DEEPROOT-E-0061786-87 (Depo Ex. 45)			

EX. NO.	DESC.	DATE	BATES REF.	AGD.	OBJ.	ADM.
25.	Email from Russell Putman to Scott Allen re FactRight deeproot reviews	10/21/2019	SEC-DEEPROOT-E-0152501-60 (Depo Ex. 46 / MSJR Ex. A-12)			
26.	Email from Mueller to Russell Putnam re FactRight report	10/24/2019	SEC-FACTRIGHT-E-00004646-88 (Depo Ex. 47)			
27.	Email from Spradlin to Blaine McLaughlin re Folio platform	09/24/2018	SEC-DEEPROOT-E-0114305-07 (Depo Ex. 48)			
28.	Email from JP Parker to Spradlin regarding Folio login for Spradlin	11/19/2019	SEC-DEEPROOT-E-0064860 (Depo Ex. 49)			
29.	Emails between JP Parker and Spradlin regarding subscriptions	12/11/2019	SEC-DEEPROOT-E-0099771-72 (Depo Ex. 50)			
30.	Employee file memo from Mueller regarding Spradlin	05/27/2020	MUELLER 002974-75 (Depo Ex. 51)			
31.	Letter from Spradlin to Mueller	06/11/2020	SEC-SpradlinN-E-0000123 (Depo Ex. 52)			
32.	Spradlin resignation letter	07/09/2020	SEC-SpradlinN-E-0000124 (Depo Ex. 53)			
33.	Supporting documents for preparing Policy Services' 2014 Tax Return	2014	SEC-AAC-E-0000031-122 (Depo Ex. 57)			
34.	2014 Tax Return for Policy Services	2014	SEC-AAC-E-0000144-69 (Depo Ex. 58)			
35.	Emails between Mueller and Abramson re 1099s	01/11/2016	SEC-DEEPROOT-E-0187630-32 (Depo Ex. 59)			
36.	Abramson & Wildman engagement letter to Mueller	01/22/2016	SEC-SEC-E-0002702-05 (Depo Ex. 60)			
37.	Emails between Mueller and Abramson re 1099-DIV	04/05/2016	SEC-DEEPROOT-E-0209999-210003 (Depo Ex. 61)			
38.	Emails between Mueller and Abramson re 1099-DIV	04/05/2016	SEC-DEEPROOT-E-210005-10 (Depo Ex. 62)			
39.	Abramson & Wildman disengagement letter to Mueller	07/07/2016	SEC-AAC-E-0000226 (Depo Ex. 63)			

EX. NO.	DESC.	DATE	BATES REF.	AGD.	OBJ.	ADM.
40.	Email from Abramson to Mueller re 1099-DIV issue	04/05/2016	Color version of SEC-DEEPROOT-E-0209999-210003 (Depo Ex. 73)			
41.	Email from Jack Richey to Mueller (cc: Rushforth) attaching presentation	06/28/2017	SEC-DEEPROOT-E-0089679 (Depo Ex. 74)			
42.	Ideal Control System and Hardware Proposal presentation	06/23/2017	SEC-DEEPROOT-E-0089688-706 (Depo Ex. 75)			
43.	Talking Points		SEC-DEEPROOT-E-0089680-86 (Depo Ex. 76)			
44.	Email from Rushforth to Mueller regarding banana lift and other projects	06/30/2021	SEC-DEEPROOT-E-0089850 (Depo Ex. 77)			
45.	Banana lift document		SEC-DEEPROOT-E-0089869-72 (Depo Ex. 78)			
46.	Pinball Leveling Documentation		SEC-DEEPROOT-E-0089851-65 (Depo Ex. 79)			
47.	Purchase Agreement	12/30/2020	SEC-DEEPROOT-E-00008342-52 (Depo Ex. 80)			
48.	Licensing and Marketing Deck 2017		SEC-DEEPROOT-E-00197919-30 (Depo Ex. 81)			
49.	Email from Bridget Homan to Rushforth attaching RAZA Preliminary BOM spreadsheet	05/09/2019	SEC-DEEPROOT-E-0090862 (Depo Ex. 82)			
50.	RAZA Preliminary BOM spreadsheet		SEC-DEEPROOT-E-0090863 (Depo Ex. 83)			
51.	Slack messages	05/03/2021	MUELLER 002870 (Depo Ex. 84)			
52.	June 2021 - May 2022 Projected Budget		MUELLER 002864-69 (Depo Ex. 85)			
53.	deeproot Tech / deeproot Pinball Disclosure UPDATED		DEEPROOT FUNDS 005379-83 (Depo Ex. 86)			

EX. NO.	DESC.	DATE	BATES REF.	AGD.	OBJ.	ADM.
54.	Mueller's Expert Designations	04/06/2023	(Depo Ex.87 / MSJ Resp. Ex. A-15)			
55.	Email from Mueller to Concilla (cc: Federico) attaching deeproot-GRD documents	01/08/2015	MUELLER 001441-1553 (Depo Ex. 88)			
56.	Email from Mueller to Concilla (cc: Federico) attaching the 575 documents	01/08/2015	MUELLER 001554-1664 (Depo Ex. 89)			
57.	Email from Concilla to Mueller re revised dGRD PPM	08/12/2015	MUELLER 002649-67 (Depo Ex. 91)			
58.	Email from Concilla to Mueller re 575 done	09/01/2015	MUELLER 002813-14 (Depo Ex. 92)			
59.	Email from Concilla to Mueller re investor presentation	09/24/2015	MUELLER 002853 (Depo Ex. 93)			
60.	Deeproot investment presentation		MUELLER 002816-51 (Depo Ex. 94)			
61.	Declaration of Dennis Concilla		MUELLER 002862-63 (Depo Ex. 101)			
62.	Email from Concilla to Mueller attaching final docs for 5 year fund	02/20/2014	MUELLER-CPM 0000063-88 (Depo Ex. 102)			
63.	Emails between Concilla, Mueller, Russell Hagan, Federico, and Michael Smith regarding Reg D and unqualified funds	03/18/2014	MUELLER-CPM 000177-79 (Depo Ex. 103)			
64.	Email between Mueller and Concilla regarding deeproot 3 Year Trending Tech Debenture Fund, LLC filings	03/27/2015	MUELLER-CPM 001545-46 (Depo Ex. 106)			
65.	Email from Mueller to Concilla and Federico attaching summary documents for project	04/02/2015	MUELLER-CPM 001547-61 (Depo Ex. 107)			
66.	Emails between Mueller, Concilla and Federico re 3-year tech fund	04/07/2015	MUELLER-CPM 001562-63 (Depo Ex. 108)			

EX. NO.	DESC.	DATE	BATES REF.	AGD.	OBJ.	ADM.
67.	Email from Mueller to Concilla and Federico regarding first major draft of GRD Term Sheet	07/23/2015	MUELLER-CPM 001706-10 (Depo Ex. 109)			
68.	Emails between Federico and Concilla attaching latest of S-1	02/05/2015	MUELLER-CPM 001428-76 (Depo Ex. 112)			
69.	Contingent Pledge and Security Agreement between deeproot entities	11/20/2020	SEC-DEEPROOT-E-00213967-79 (MSJ Resp. Ex. A-13)			
70.	Email from Kristen Warden to Jay Hulings and Jason Davis attaching Expert Report of Bill Post	03/17/2023	(MSJ Resp. Ex. A-14)			
71.	SEC's Initial Disclosures	04/15/2022	(MSJ Resp. Ex. A-16)			
72.	SEC's Amended Initial Disclosures	11/14/2022	(MSJ Resp. Ex. A-17)			
73.	Mueller's Response to Plaintiff's First Set of Interrogatories	08/19/2022	(MSJ Resp. Ex. A-18)			
74.	the575 Application and Subscription Agreement for James Donnelly	05/10/2019	DEEPROOT_FUNDS 001911-18			
75.	the575 Application and Subscription Agreement for Robert Kane	02/12/2017	DEEPROOT_FUNDS 003189-98			
76.	the575 Application and Subscription Agreement for Sandra Thompson	08/30/2016	MUELLER 002876-84			
77.	the575 Application and Subscription Agreement for Sandra Thompson	10/25/2016	MUELLER 002885-92			
78.	FactRight Due Diligence Report for the575	March 2018	SEC-FACTRIGHT-E-00000004-30			
79.	FactRight Due Diligence Report for the575	Oct. 2019	SEC-FACTRIGHT-E-00000163-89			
80.	FactRight Due Diligence Report for dGRD	March 2018	SEC-FACTRIGHT-E-00000223-50			
81.	FactRight Due Diligence Report for dGRD	Oct. 2019	SEC-FACTRIGHT-E-00000412-37			
82.	Email between Tom Andrew and Robert	04/02/2019	CYCL00006116-17			

EX. NO.	DESC.	DATE	BATES REF.	AGD.	OBJ.	ADM.
	Mueller regarding sale for value of Basha policy					
83.	Email between SEC and Davis & Santos refusing to toll filing of Complaint	08/19/2021	MUELLER 002860-61			
84.	Pre-suit interview transcript of Scott Allen	05/24/2021	--			
85.	Pre-suit interview transcript for Andrew Thomas	05/27/2021	--			
86.	Pre-suit interview transcript for Cary Mueller	06/04/2021	--			
87.	Pre-suit interview transcript for Nathan Spradlin	06/09/2021	--			
88.	Pre-suit interview transcript for John Mark Richardson	06/11/2021	--			
89.	Pre-suit interview transcript of Robert Mueller, Vol. 1	06/23/2021	--			
90.	Pre-suit interview transcript of Robert Mueller, Vol. 2	06/24/2021	--			
91.	Declaration of Kenneth Abramson	09/07/2022	SEC-SEC-E-0002717-20			
92.	Declaration of Gerald R. Wik	09/07/2022	SEC-SEC-E-0002500-53			
93.	Declaration of George C. Williams	09/13/2022	SEC-SEC-E-0002551-53			
94.	Declaration of Brad Alan Leon	09/14/2022	SEC-SEC-E-0002517-20			
95.	Declaration of Sandra Thompson	09/15/2022	SEC-SEC-E-0002508-11			
96.	Declaration of Robert Kane	09/25/2022	SEC-SEC-E-0002946-49			
97.	Declaration of John Gray	10/09/2022	SEC-SEC-E-002959-62			
98.	Declarations of James Donnelly	10/18/2022	SEC-SEC-E-0002984-87			
99.	Declaration of Phillip Forret	11/04/2022	SEC-SEC-E-0002979-81			

EX. NO.	DESC.	DATE	BATES REF.	AGD.	OBJ.	ADM.
100.	Photos of Facilities and Machines		MUELLER 002893-99			
101.	Photo Fire Brimstone machine model		MUELLER 002900			
102.	Photo RAZA machines		MUELLER 002901			
103.	Video of RAZA walkthrough		MUELLER 002960			
104.	Video of RAZA prototype gameplay at Houston Arcade Expo		MUELLER 002965			
105.	Video of Goonie's gameplay sample		MUELLER 002961			
106.	Video of MachineAge graphics		MUELLER 002962			
107.	Chris Turner video - Pinside Pinball Mystery Whodunnit!		MUELLER 002963			
108.	Chris Turner video - Top 5 Questions about Turner Pinball		MUELLER 002964			
109.	<i>This Week in Pinball</i> Article - FIRST LOOK: deeproot Pinball's Retro Atomic Zombie Adventureland, plus Interviews with John Popadiuk, Steven Bowden, and Robert Mueller	11/14/2019	MUELLER 002902-10			
110.	<i>Pinball Subpernova</i> article – News: Deeproot Finally Unveils Retro Atomic Zombie Adventureland Prototype Pinball	11/15/2019	MUELLER 002966-69			
111.	<i>Pinball News</i> article: Retro Atomic Zombie Adventureland	11/15/2019	MUELLER 002970-73			
112.	<i>This Week in Pinball</i> Article - THIS WEEK IN PINBALL: December 23rd, 2019	12/23/2019	MUELLER 002911-22			

EX. NO.	DESC.	DATE	BATES REF.	AGD.	OBJ.	ADM.
113.	<i>This Week in Pinball</i> Article - THIS WEEK IN PINBALL: March 16th, 2020	03/16/2020	MUELLER 002923-28			
114.	<i>This Week in Pinball</i> Article - Avengers Reveal Videos, deeproot Announces Launch Date, Raymond Davidson Interview, and the Pinball Pig	09/14/2020	MUELLER 002929-38			
115.	<i>This Week in Pinball</i> Article - deeproot RAZA Gameplay Reveal, ReplayFX/PAPA/ Pinburgh/WIPT Cancelled Permanently, Star Wars Comic Art, Alien Pinball Teasers	11/23/2020	MUELLER 002939-53			
116.	<i>Express News</i> Article – World ranked pinball wizard is reviving the game	09/25/2020	MUELLER 002954-59			

Dated: October 6, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on October 6, 2023, the foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system and all counsel of record will receive an electronic copy via the Court's CM/ECF system.

/s/ Caroline Newman Small

Caroline Newman Small